

# Debtors' Ex. 68

(H. B. 4434)

(No. 216)

(Approved August 19, 2004)

## **AN ACT**

To authorize the issue of bonds of the Commonwealth of Puerto Rico in a principal amount which shall not exceed five hundred and fifty million (550,000,000) dollars, and the issue of notes in advance of bonds to cover the cost of necessary public improvements and the cost of the sale of such bonds; to provide for the payment of the principal and interest on such bonds and notes; to authorize the Secretary of the Treasury to make provisional advances from the General Fund of the Commonwealth Treasury to be applied for the payment of the costs of said improvements and said sale of bonds; to grant the Secretary of Transportation and Public Works and other agencies and instrumentalities of the Commonwealth, the power to acquire the necessary real and personal property and to exercise the power of eminent domain, and to exempt said bonds, notes and interest thereon from the payment of taxes.

### ***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- The Secretary of the Treasury is hereby authorized to issue and sell, all at once or from time to time, bonds of the Commonwealth of Puerto Rico in a principal amount which shall not exceed five hundred and fifty million (550,000,000) dollars in order to cover the cost of the necessary public improvements itemized below, including the acquisition of the necessary land or rights thereon, and equipment therefor, to draw up plans and specifications, the cost of the sale of the bonds and notes issued in advance thereof, and any other necessary expense in connection with the acquisition or construction of such improvements.

Works financed by this bond issue shall have a useful life of five (5) or more years and operating expenses shall not be included in the costs to be financed through this bond issue.

The public improvements and the cost of the sale of the bonds to be financed under this Act, and the estimated amounts of the proceeds of the bonds to be applied to each of such improvements and costs by major expense items, are as follows:

I.	Transportation and Communications Facilities	\$ 68,400,000
II.	Aqueduct and Sewer Facilities	11,000,000
III.	Hospital, School, Social Welfare, Health and Labor Facilities	41, 599,000
IV.	Agricultural, Industrial and Tourist Facilities	20,384,000
V.	Construction and Improvements of Parks and other Recreational and Cultural Facilities	48,885,000
VI.	Development of Flood Control and Solid Waste Projects	36,456,000
VII.	Necessary Costs for the 2005 Bond Issue	3,500,000
VIII.	Construction of Municipal Works	86,107,000
IX.	Construction of Works	91,450,000
X.	Housing Construction and Improvements	91,450,000
XI.	Development of Law Enforcement, Corrections and Justice Administration Projects	22,907,000
XII.	Special Maintenance Fund	<u>27,500,000</u>
	<b>TOTAL</b>	<b><u>\$550,000,000</u></b>

With regard to the acquisition and construction of the public works, the Secretary of the Treasury is hereby authorized to pay all those costs incurred

in connection with the issue of bonds and notes authorized by this Act, including costs related to insurance, letters of credit or other instruments used to reduce financing costs. Any discount, charge for commitment or syndication, or any similar charge payable for the issue of bonds and notes, shall be included in the computation of the price or prices for which said bonds and notes may be sold, pursuant to the provisions of this Act.

Section 2(a).- The bonds to be issued from time to time under the provisions of this Act, as well as any other detail related thereto, shall be authorized through an Act or Acts to be adopted by the Secretary of the Treasury and approved by the Governor. Said bonds shall be designated as “Public Improvement Bonds of the Commonwealth of Puerto Rico for the Year 2005.”

(b).- The bonds authorized to be issued under the provisions of this Act shall be dated, shall fall due on a date or dates that shall not exceed thirty (30) years from its date or dates (except for bonds related to public housing, which shall mature not later than forty (40) years from their date or dates), shall accrue interest at a rate or rates that shall not exceed those legally authorized at the time the bonds are issued, may be redeemable before maturity at the option of the Secretary of the Treasury, may be sold with or without premium, shall be of such denomination and in such form, with interest coupons or registered, or both, shall have such registration and conversion privileges, shall be executed in such a form, shall be payable in such places within or without the Commonwealth of Puerto Rico, and shall contain such other terms and conditions as provided by the Enabling Act or Acts.

(c).- The bonds authorized hereunder may be sold all at once or from time to time, in public or private sale, and for such price or prices not lower

than the price legally established at the time they are issued, as determined by the Secretary of the Treasury with the approval of the Governor to be most convenient to the best interests of the Commonwealth of Puerto Rico.

(d).- When any official whose signature or facsimile thereof appears on any bond or coupon authorized under this Act ceases to hold office before the delivery of said bonds, said signature or facsimile shall, nevertheless, be valid and sufficient, it being deemed for all purposes as if such official had remained in office until such delivery. Furthermore, any bond or coupon may bear the signature or facsimile of those persons who, at the time said bond is executed, are the proper officials to sign it, but who, on the date of the bond, were not holding such office.

(e).- The bonds issued pursuant to the provisions of this Act shall be deemed to be negotiable instruments under the laws of the Commonwealth of Puerto Rico.

(f).- The bonds authorized by this Act may be issued as coupons or in registered form, or both, as determined in the Enabling Act or Acts, and provision may be made for the registration of any bonds or coupons as to principal only, as well as to principal and interest, and for the reconversion of any registered bonds into coupon bonds, as to principal and interest.

Section 3.- The Secretary of the Treasury is authorized, with the approval of the Governor, to negotiate and execute with any bank, investment institution or any other financial institution, such loan contracts, purchase agreements or other financing agreements needed for the sale of the bonds or of the notes in advance of bonds authorized to be issued in Section 5 of this Act, under such terms and conditions that the Secretary of the Treasury determines to be most convenient in the best interests of the Commonwealth of Puerto Rico.

Section 4.- The good faith, credit and taxing power of the Commonwealth of Puerto Rico are irrevocably pledged for the prompt payment of the principal and interest on the bonds issued under the provisions of this Act. The Secretary of the Treasury is hereby authorized and directed to pay the principal and interest on such bonds as they mature, from any funds available for such purposes in the Treasury of the Commonwealth of Puerto Rico in the fiscal year in which such payment is required, and the provisions of this Act concerning the payment of the principal of and interest on such bonds shall be deemed a non-lapsing appropriation for the Secretary of the Treasury to make such payments even if no specific appropriations are made for such purpose. Said payments shall be made pursuant to the provisions of the Laws of the Commonwealth of Puerto Rico which regulate the disbursement of public funds.

The Secretary of the Treasury is hereby authorized and directed to include in the Enabling Act or Acts, the commitment which the Commonwealth of Puerto Rico hereby enters into, and that on said bonds it shall state that the good faith, credit and taxing power of the Commonwealth of Puerto Rico is thus pledged.

Section 5.- The Secretary of the Treasury, by Resolution approved by the Governor, is hereby authorized to borrow money and issue notes of the Commonwealth of Puerto Rico in advance of the bond issue, at any time, or from to time, payable solely from the proceeds of said bonds.

Said notes shall be designated as "Notes in Advance of Bonds of the Commonwealth of Puerto Rico," and it shall be consigned thereon that they are issued in advance of such bond issue.

Said notes, including any renewals or extensions thereof, shall be dated, may be issued from time to time with a maturity that shall not exceed five

(5) years from the first date of issue, shall bear interest at such rate that shall not exceed that which is legally authorized at the time they are issued, and may be redeemable before their maturity at the option of the Secretary of the Treasury, and shall be executed in such form and manner, and may be sold at public or private sale at such price or prices that are not less than the price established by law at the time they are issued, and shall contain such other terms and conditions as provided in the Enabling Act or Acts adopted by the Secretary of the Treasury and approved by the Governor.

Section 6.- The good faith, credit and taxing power of the Commonwealth of Puerto Rico are irrevocably pledged for the prompt payment of the interest on any note issued pursuant to the provisions of this Act. The Secretary of the Treasury is hereby authorized and directed to pay interest on said notes as they become due, from any funds available in the Treasury of the Commonwealth of Puerto Rico for such purpose during the fiscal year in which said payment is required. The provisions contained in this Act with regard to the payment of interest on the notes in advance of the bond issue shall be deemed to be a non-lapsing appropriation for the Secretary of the Treasury to make said payments even if no specific appropriations are made for such purposes.

Pursuant to the provisions of this Act, the Secretary of the Treasury shall issue bonds sufficiently in advance and in the amount needed to provide the funds required to pay the principal of the notes as they mature and are payable, and shall apply the proceeds of the bond issue to the payment of said notes.

Any payments made with respect to the notes in advance of the bond issue shall be made according to the provisions of the Laws of the

Commonwealth of Puerto Rico that regulate the disbursement of public funds.

Section 7.- The proceeds of the sale of the notes and bonds issued under the provisions of this Act (other than the proceeds of the bonds required for the payment of the principal of such notes) shall be covered into a special fund denominated the "Public Improvements Fund for the Year 2005," and shall be disbursed according to the statutory provisions that regulate the disbursements of public funds, and for the purposes provided herein.

Section 8.- The Secretary of the Treasury is hereby authorized to make provisional advances from any funds available in the Public Treasury of the Commonwealth of Puerto Rico to be applied for defraying the cost of the public works authorized to be financed with the proceeds of the sale of the bonds issued under the provisions of this Act. The Secretary of the Treasury shall reimburse any provisional advance made, out of the first moneys available in the Public Improvements Fund for the Year 2005.

Section 9.- Pursuant to the determinations of the Director of the Office of Management and Budget, the Secretary of the Treasury, with the approval of the Governor, is hereby authorized to apply any funds appropriated by this Act which are not later needed for the purpose stated herein, for carrying out any other capital public improvements approved by the Legislature that are pending to be executed, chargeable to the General Fund.

Section 10.- The acquisition and construction of the public improvements authorized to be financed with the proceeds of the sale of bonds issued under the provisions of this Act shall be carried out in accordance with the plans approved by the Planning Board pursuant to the provisions of Act No. 75 of June 24, 1975, as amended, known as the



“Organic Act of the Planning Board of Puerto Rico,” and subject to the subsequent approval by the Government of Puerto Rico.

Section 11.- The Secretary of Transportation and Public Works and the agencies and instrumentalities of the Commonwealth of Puerto Rico in charge of the programs for which the proceeds of the sale of the bonds issued under the provisions of this Act are to be used, are hereby authorized and empowered to acquire on behalf of the Commonwealth of Puerto Rico or on behalf of such agency or instrumentality, as the case may be, by donation, purchase or exercise of the power of eminent domain in accordance with the laws of the Commonwealth of Puerto Rico, any land or rights or shares thereon, and to acquire such personal property or equipment they deem necessary to carry out the same through the issue and sale of said bonds.

Section 12.- The sum deemed necessary is hereby appropriated from the proceeds of the sale of the bonds issued under the provisions of this Act, to be applied to the payment of the expenses incurred in connection with the issue and sale of said bonds, including expenses related to insurance, letters of credit or other instruments used to reduce financing costs.

Section 13.- From the proceeds of the sale of the bonds issued under the provisions of this Act, the sum of twenty-seven million five hundred thousand (27,500,000) dollars shall be placed under the custody of the Office of Management and Budget, until the Interagency Special Maintenance Proposal Evaluating and Approving Committee claims said funds for these to be covered into the Special Maintenance Fund, both of which bodies were created by Act No. 66 of August 14, 1991, as amended.

Section 14.- All bonds and notes issued under the provisions of this Act, as well as any interest thereon, shall be exempted from the payment of

any tax levied by the Commonwealth of Puerto Rico and its instrumentalities.

Section 15.- This Act shall take effect immediately after its approval.

### **CERTIFICATION**

I hereby certify to the Secretary of State that the following Act No. 216 (H.B. 4434) of the 7<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to authorize the issue of bonds of the Commonwealth of Puerto Rico in a principal amount which shall not exceed five hundred and fifty million (550,000,000) dollars, and the issue of notes in advance of bonds to cover the cost of necessary public improvements and the cost of the sale of such bonds; to provide for the payment of the principal and interest on such bonds and notes; to authorize the Secretary of the Treasury to make provisional advances from the General Fund of the Commonwealth Treasury to be applied for the payment of the costs of said improvements and said sale of bonds,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 21<sup>st</sup> of September of 2004.

Elba Rosa Rodríguez-Fuentes  
Director



